

FACT SHEET

Direct Final Revisions to the General Provisions for the Consolidated Federal Air Rule – Unavoidable Performance Test Delays

ACTION

- On August 17, 2007, the Environmental Protection Agency (EPA) issued direct final amendments to allow owners of certain facilities to request a time extension for conducting performance tests in response to major events that cause unavoidable performance test delays. These major events are called “force majeure”.
- EPA defines a “force majeure” as an event caused by circumstances beyond the control of an affected facility. The event prevents the owner from conducting required performance tests on time despite best efforts to do so.
- Examples of such events are acts of nature, acts of war or terrorism, or equipment failure or safety hazard beyond the control of the affected facility.
- The direct final amendments would revise EPA’s General Provisions rules that apply to facilities emitting air toxics which are subject to the Consolidated Federal Air Rule. The General Provisions establish a common set of requirements for developing rules or standards to regulate emissions of air pollutants.
- The direct final amendments would require the source owner or operator to provide the following to the EPA Administrator as soon as possible after the force majeure:
 - 1.) A written description of the force majeure
 - 2.) The rationale for attributing the delay in performance testing to the force majeure
 - 3.) Measures taken or to be taken to minimize the delay
 - 4.) An anticipated date by which the performance test will be conducted.
- Also, the direct final amendments would require the owner or operator to conduct the test as soon as practicable after the force majeure event occurs.
- The amendments would not result in any change in emissions. Minimal costs would be incurred.
- Because we view the correction as noncontroversial and do not anticipate adverse comments, we are issuing this rule as direct final amendments with a parallel proposal. If EPA receives relevant adverse comment on the parallel proposal, we will withdraw the direct final rule and respond to the comment in a final rule amendment.

- The direct final amendments will be effective 90 days after publication of the direct final rule in the *Federal Register*.

BACKGROUND

- This action applies to source owners and operators who are required to conduct stack testing to demonstrate compliance with applicable standards under the Consolidated Federal Air Rule.
- On May 16, 2007, the EPA published a final rule that revised the General Provisions for Standards of Performance for New Stationary Sources, for National Emission Standards or Hazardous Air Pollutants, and for National Emission Standards for Hazardous Air Pollutants for Source Categories. This action revises the Consolidated Federal Air Rule in a similar manner.

FOR MORE INFORMATION

- To download a copy the proposed rule, go to EPA's Worldwide Web site at <http://www.epa.gov/ttn/oarpg/> under newly proposed or issued rules.
- Today's proposed rule and other background information are also available either electronically at <http://www.regulations.gov>, EPA's electronic public docket and comment system, or in hardcopy at the EPA Docket Center's Public Reading Room.
 - The Public Reading Room is located in the EPA Headquarters Library, Room Number 3334 in the EPA West Building, located at 1301 Constitution Ave., NW, Washington, DC. Hours of operation are 8:30 a.m. to 4:30 p.m. eastern standard time, Monday through Friday, excluding Federal holidays.
 - Visitors are required to show photographic identification, pass through a metal detector, and sign the EPA visitor log. All visitor materials will be processed through an X-ray machine as well. Visitors will be provided a badge that must be visible at all times.
 - Materials for this action can be accessed using Docket ID No. EPA-HQ-OAR-2007-0429
- HOW TO COMMENT: Comments should be identified by Docket ID No. EPA-HQ-OAR-2007-0429 and submitted by one of the following methods:
 - Federal eRulemaking Portal (<http://www.regulations.gov>),
 - e-mail (a-and-r-Docket@epa.gov),
 - Mail (Air and Radiation Docket and Information Center, Environmental Protection Agency, Mailcode 2822T, 1200 Pennsylvania Avenue, NW, Washington, DC 20460), or

- Hand delivery (EPA Docket Center, Environmental Protection Agency, Room 3334, 1301 Constitution Avenue, NW, Washington, DC).

FOR MORE INFORMATION

- Interested parties can download the rule from EPA's web site on the Internet under "Recent Actions" at the following address: <http://www.epa.gov/ttn/oarpg/>.
- For further information about the rulemaking, contact Ms. Lula Melton of EPA's Office of Air Quality Planning and Standards at (919) 541-2910 or Melton.Lula@epa.gov.